

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LEONA COLEMAN,)	
)	
Plaintiff,)	Case No.: 4:20-cv-1815
)	
vs.)	<i>Removed from the 21st Judicial Circuit</i>
)	<i>Court of St. Louis County, Missouri</i>
CINTAS CORPORATE SERVICES AND)	<i>Case No.: 20SL-CC01266</i>
RYAN FRANCIS,)	
)	JURY TRIAL DEMANDED
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants Cintas Corporation No. 2 (incorrectly named as Cintas Corporate Services) (hereinafter “Cintas”) and Ryan Francis (collectively hereinafter “Defendants”), by and through their attorneys, Baker Sterchi Cowden and Rice, LLC, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 *et seq.*, and hereby file their Notice of Removal of this lawsuit, originally filed in the Circuit Court of St. Louis County, State of Missouri, and in support of their Notice of Removal state as follows:

THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

1. This case is a civil action in which the District Courts of the United States have been given original jurisdiction under the provisions of 28 U.S.C. §§ 1332, 1441(a) and 1446(b) in that diversity of citizenship exists between Plaintiff and Defendants, and the amount in controversy, upon information and belief, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

2. On February 21, 2020, Plaintiff filed an action in the Circuit Court of St. Louis County which named Cintas and “John Doe” as defendants. Plaintiff’s action bears the case number 20SL-CC01266 (the “State Court Action”).

3. On March 23, 2020, Cintas was served with the Summons and Plaintiff's Petition.
4. Plaintiff's Petition alleged that John Doe resided in Missouri.
5. On November 17, 2020, Plaintiff filed a Motion for Leave to File First Amended Petition to amend John Doe's name to Ryan Francis to reflect the correct party.
6. On December 1, 2020, the court granted Plaintiff's motion for leave.
7. On December 15, 2020, Plaintiff filed her First Amended Petition naming Ryan Francis as a Defendant and undersigned counsel accepted service on his behalf. Please see First Amended Petition attached hereto as Exhibit A.
8. Once Ryan Francis was substituted as the correct defendant, Cintas was able to confirm that removal was proper based on diversity jurisdiction as Mr. Francis is a resident of Ohio. Please see attached Affidavit of Ryan Francis attached hereto as Exhibit C.
9. Thirty (30) days have not expired since service was accepted on behalf of Defendant Ryan Francis.
10. This Notice of Removal is timely filed within 30 days after service of process upon Defendant Ryan Francis. *See* 28 U.S.C. § 1446(b)(2)(B).
11. As required by 28 U.S.C. § 1446(a), a copy of all records and proceedings from the Circuit Court of St. Louis County, Missouri, is attached hereto. The First Amended Petition is attached hereto as Exhibit A. The remainder of the state court file is attached hereto as Exhibit B and includes the following:
 - Case pleadings; and
 - Current State Court Docket Sheet.
12. In accordance with 28 U.S.C. § 1446(d), Defendants Cintas and Ryan Francis have filed written notice of this removal with the Clerk of the Circuit Court of St. Louis County,

Missouri, where the State Court Action is pending. A copy of this Notice of Removal and the written notice of the same also are being served upon Plaintiff.

COMPLETE DIVERSITY OF CITIZENSHIP EXISTS

13. Based on Plaintiff's First Amended Petition, Defendants Cintas and Ryan Francis reasonably believe and state that Plaintiff is now, and was at the time of the commencement of this action, a resident and citizen of the State of Missouri. *See* Exhibit A, First Amended Petition.

14. Specifically, Plaintiff asserts in her First Amended Petition that "at all times herein mentioned, Plaintiff, Leona Coleman, is a citizen of the United States above the age of eighteen (18) years who resides within St. Louis County, State of Missouri." *See* Exhibit A, ¶ 1.

15. Defendant Cintas is now and was at the time of the commencement of this action, a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Ohio.

16. Specifically, Defendant Cintas is registered with the Missouri Secretary of State as a foreign for-profit corporation organized and existing under the laws of Ohio with its principal place of business at 6800 Cintas Boulevard, Cincinnati, Ohio 45262 and all its officers and board of directors located in Ohio.

17. Defendant Ryan Francis is now and was at the time of the commencement of this action against him, an individual residing in Fairborne, Ohio. *See* Exhibit C.

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

18. Plaintiff's First Amended Petition alleges damages as a result of the alleged negligence of Defendants and specifically alleged that as a result of the negligence and carelessness of Defendants, Plaintiff was caused to sustain progressive, painful and traumatic injuries and lasting injuries to her left quadricep tendon, her right rotator cuff, and right knee and lower back.

She further claims that she has incurred lost wages, medical bills and loss of enjoyment of life. *See* Exhibit A, First Amended Petition ¶¶ 16 and 17.

19. In this matter, plaintiff produced a stipulation for compromise of settlement from the Missouri Department of Labor and Industrial Relations showing that the employer and employee paid medical expenses totaling \$93,187.75 and that the employer and insurer paid temporary disability for 20 4/7 weeks in the amount of \$9,503.43 both allegedly arising out of the incident that is subject to this claim.

20. Additionally, Plaintiff produced approximately \$74,782.04 in medical expenses that she claims are related to this incident.

21. Additionally, Plaintiff made a settlement demand in the amount of \$450,000.00. *See* Exhibit D, Settlement Demand.

22. “[T]he district court has subject matter jurisdiction in a diversity case when a fact-finder could legally conclude, from the pleadings and proof adduced to the court before trial, that the damages that the plaintiff suffered are greater than \$75,000.00.” *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002); *see also Hollenbeck v. Outboard Marine Corp.*, 201 F.Supp.2d 990, 994 (E.D.Mo. 2001). Importantly, the amount in controversy analysis does not require proof that the damages are greater than the requisite amount, and only asks whether a fact finder ***could legally conclude that they are***. *See James Neff Kramper Family Farm P’ship v. IBP, Inc.*, 393 F.3d 828, 831 (8th Cir. 2005); *Kopp*, 280 F.3d at 885.

23. Thus, while Defendants reserve the right to contest Plaintiff’s claims, an objective assessment of these allegations demonstrates that a reasonable jury could find that Plaintiff’s damages exceed \$75,000.00 for purposes of determining subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a).

24. Complete diversity exists between Plaintiff and Defendants. Furthermore, because the amount in controversy exceeds \$75,000.00, exclusive of costs and interest, this Court has original jurisdiction under 28 U.S.C. § 1332(a), and this matter may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441(a).

25. The United States District Court for the Eastern District of Missouri is the appropriate venue for the filing of this Notice of Removal because it is the federal district geographically embracing the place where this cause of action is pending, which is the Circuit Court for the Twenty-First Judicial Circuit, St. Louis County, State of Missouri.

WHEREFORE, Defendants Cintas Corporation No.2 and Ryan Francis respectfully request that this Court assume jurisdiction over this action in accordance with 28 U.S.C. §§ 1332, 1441, and 1446. Should any issue arise as to the propriety of this removal, Defendants Cintas Corporation No.2 and Ryan Francis respectfully request the opportunity to provide briefing and oral argument on the same.

Respectfully submitted,

BAKER STERCHI COWDEN & RICE, LLC

By /s/ Jessica B. Cozart

Jessica B. Cozart, #65852MO
Shatrasha L. Stone, #68801MO
100 North Broadway, 21st Floor
St. Louis, MO 63102
(314) 345-5000
(314) 345-5055 (facsimile)
jcozart@bscr-law.com
sstone@bscr-law.com

**ATTORNEYS FOR DEFENDANT
CINTAS CORPORATION NO. 2**

CERTIFICATE OF SERVICE

I hereby certify that on the 18TH day of December, 2020, a copy of the foregoing was electronically filed using the Court's CM/ECF system, and served electronically and/or by U.S. Mail, postage prepaid, to the following counsel of record:

Rick Barry
Megen I. Hoffman
Law Offices of Rick Barry, PC
1034 S. Brentwood Blvd., Suite 1301
St. Louis, MO 63117
rickbarry@rickbarrypc.com
megens@rickbarrypc.com
Attorneys for Plaintiff

/s/ Jessica B. Cozart.